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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,895

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Rangaswamy G. Iyengar

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06/25/2008

FAY SHARPE LLP

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT

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MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,895	Applicant(s) IYENGAR ET AL.	
	Examiner Christopher S. Kim	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/7/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Species B (figure 2) in the reply filed on June 9, 2008 is acknowledged.
2. Claims 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 9, 2008.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 11-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 11 recites "means for selectively positioning the valve..." The specification discloses that my movement and positioning of head 82, the ball valve 48 is limited from engaging or allowed to engage upper valve seat 50. The pressure differential from the working fluid in fact moves the ball valve. The specification does not appear to teach a "means" that selectively positions the valve.

Claim 14 recites "the second passage is an elongated, hollow moveable stem."

The specification fails to teach a "second passage that communicates with an associated source of compressed air" (as defined by claim 11) is a moveable stem.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the preamble is directed to a "spray device" but the claim body contains recitations directed to the relationship between the spray device, "fluid reservoir" and the "compressed source." The preamble is directed to the subcombination of the spray device, but the claim body is directed to the combination of the spray device, fluid reservoir and the compressed source.

Claim 11 recites "means for selectively positioning the valve to direct fluid from the fluid reservoir toward the air dispensing opening to seal the first passage in response to increased pressure in the fluid reservoir." The recitation appears to be grammatically incorrect or a contradiction. It is uncertain how the means, by selectively positioning the valve to direct fluid from the fluid reservoir toward the air dispensing opening, seals the first passage in response to increased pressure in the fluid reservoir.

In light of the non-enablement rejection above, it is uncertain what is encompassed by the "means for selectively positioning the valve." Applicant is required to identify, in the specification, the structure for the mean plus function recitation.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornelius (2,772,118) in view of Farmer (2,761,734).

Cornelius discloses a spraying device comprising:

a fluid reservoir 10;

a dispensing head having:

a first passage 21;

a spray head including:

a second passage 39;

an air dispensing opening 42.

Cornelius discloses the limitations of the claimed invention with the exception of a valve in the first passage between first and second valve seats.

Farmer teaches a dip tub 34, 40 having a valve 37 between first 36 and second 35 valve seats and means 34 for selectively positing the valve.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the valve of Farmer to the dip tube of Cornelius to halt dispensing the reservoir fluid but continue dispensing the carrier fluid.

Note, the claimed invention does not require that the valve engage both valve seats.

9. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornelius (2,772,118) in view of Por (4,099,655).

Cornelius discloses a spraying device comprising:

- a fluid reservoir 10;
- a dispensing head having:
 - a first passage 21;
- a spray head including:
 - a second passage 39;
 - an air dispensing opening 42.

Cornelius discloses the limitations of the claimed invention with the exception of a valve in the first passage between first and second valve seats.

Por teaches, in figure 2, a dip tub 22, 23 having a valve 19 between first 20 and second 21 valve seats and means 18 for selectively positing the valve.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the valve of Por to the dip tube of Cornelius to prevent inverted spraying.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571)

272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher S. Kim/
Primary Examiner, Art Unit 3752

CK